

**ALASKA STATE LEGISLATURE  
SENATE STATE AFFAIRS STANDING COMMITTEE**

May 6, 2021

3:33 p.m.

**MEMBERS PRESENT**

Senator Mike Shower, Chair  
Senator Lora Reinbold, Vice Chair (via Teams)  
Senator Mia Costello (via Teams)  
Senator Roger Holland (via Teams)  
Senator Scott Kawasaki (via Teams)

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 108

"An Act providing for state recognition of federally recognized tribes; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 109

"An Act renaming the Alaska Native Language Preservation and Advisory Council as the Council for Alaska Native Languages; and relating to the Council for Alaska Native Languages."

- HEARD & HELD

SENATE BILL NO. 82

"An Act relating to elections and election investigations."

- HEARD & HELD

SENATE BILL NO. 1

"An Act prohibiting the use of chokeholds by peace officers; and relating to justification of use of force by peace officers."

- HEARD & HELD

SENATE BILL NO. 4

"An Act relating to justification of use of force by a peace officer; and relating to shooting at a moving vehicle."

- HEARD & HELD

SENATE BILL NO. 115

"An Act relating to confidentiality of information; relating to the duties of the Department of Administration; creating an address confidentiality program; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 83

"An Act relating to elections; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3 (JUD)

"An Act relating to the definition of 'disaster.'"

- MOVED CSHB 3 (JUD) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 12

Urging the United States Congress to repeal the Windfall Elimination Provision and Government Pension Offset of the Social Security Act.

- MOVED SJR 12 OUT OF COMMITTEE

SENATE BILL NO. 91

"An Act relating to the duties of the commissioner of corrections; relating to the detention of minors; relating to minors subject to adult courts; relating to the placement of minors in adult correctional facilities; and providing for an effective date."

- MOVED CSSB 91 (STA) OUT OF COMMITTEE

SENATE BILL NO. 117

"An Act relating to the state procurement code; establishing the construction manager general contractor procurement method; and providing for an effective date."

- MOVED SB 117 OUT OF COMMITTEE

## PREVIOUS COMMITTEE ACTION

### BILL: SB 108

SHORT TITLE: STATE RECOGNITION OF TRIBES

SPONSOR(s): SENATOR(s) OLSON

03/19/21	(S)	READ THE FIRST TIME - REFERRALS
03/19/21	(S)	STA, CRA
04/29/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/29/21	(S)	-- MEETING CANCELED --
05/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/04/21	(S)	Scheduled but Not Heard
05/06/21	(S)	STA AT 3:30 PM BUTROVICH 205

### BILL: SB 109

SHORT TITLE: COUNCIL FOR ALASKA NATIVE LANGUAGES

SPONSOR(s): SENATOR(s) OLSON

03/19/21	(S)	READ THE FIRST TIME - REFERRALS
03/19/21	(S)	STA, FIN
04/29/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/29/21	(S)	-- MEETING CANCELED --
05/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/04/21	(S)	Scheduled but Not Heard
05/06/21	(S)	STA AT 3:30 PM BUTROVICH 205

### BILL: SB 82

SHORT TITLE: ELECTIONS; ELECTION INVESTIGATIONS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/12/21	(S)	READ THE FIRST TIME - REFERRALS
02/12/21	(S)	JUD, STA, FIN
03/01/21	(S)	JUD AT 1:30 PM BUTROVICH 205
03/01/21	(S)	Heard & Held
03/01/21	(S)	MINUTE(JUD)
04/12/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/12/21	(S)	Heard & Held
04/12/21	(S)	MINUTE(JUD)
04/21/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/21/21	(S)	<Bill Hearing Canceled>
04/23/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/23/21	(S)	Heard & Held
04/23/21	(S)	MINUTE(JUD)
04/26/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/26/21	(S)	Moved CSSB 82(JUD) Out of Committee
04/26/21	(S)	MINUTE(JUD)
04/28/21	(S)	JUD RPT CS 2DP 2NR 1AM SAME TITLE

04/28/21 (S) DP: HOLLAND, MYERS  
04/28/21 (S) NR: HUGHES, SHOWER  
04/28/21 (S) AM: KIEHL  
05/06/21 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 1

SHORT TITLE: CHOKEHOLD BAN

SPONSOR(s): GRAY-JACKSON

01/22/21 (S) PREFILE RELEASED 1/8/21  
01/22/21 (S) READ THE FIRST TIME - REFERRALS  
01/22/21 (S) STA, JUD  
05/06/21 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 4

SHORT TITLE: PROHIBIT PEACE OFF. SHOOT MOVING VEHICLE

SPONSOR(s): GRAY-JACKSON

01/22/21 (S) PREFILE RELEASED 1/8/21  
01/22/21 (S) READ THE FIRST TIME - REFERRALS  
01/22/21 (S) STA, JUD  
05/06/21 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 115

SHORT TITLE: ADDRESS CONFIDENTIALITY PROGRAM

SPONSOR(s): KIEHL

03/31/21 (S) READ THE FIRST TIME - REFERRALS  
03/31/21 (S) STA, JUD, FIN  
05/06/21 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 83

SHORT TITLE: ELECTIONS; VOTING; BALLOT REQS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/12/21 (S) READ THE FIRST TIME - REFERRALS  
02/12/21 (S) STA, FIN  
03/02/21 (S) STA AT 3:30 PM BUTROVICH 205  
03/02/21 (S) Heard & Held  
03/02/21 (S) MINUTE(STA)  
03/11/21 (S) STA AT 3:30 PM BUTROVICH 205  
03/11/21 (S) Heard & Held  
03/11/21 (S) MINUTE(STA)  
05/06/21 (S) STA AT 3:30 PM BUTROVICH 205

BILL: HB 3

SHORT TITLE: DEFINITION OF "DISASTER": CYBERSECURITY

SPONSOR (s) : JOHNSON

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	STA, JUD
02/23/21	(H)	STA AT 3:00 PM GRUENBERG 120
02/23/21	(H)	Heard & Held
02/23/21	(H)	MINUTE(STA)
03/02/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/02/21	(H)	Moved CSHB 3(STA) Out of Committee
03/02/21	(H)	MINUTE(STA)
03/08/21	(H)	STA RPT CS(STA) 1DP 1NR 5AM
03/08/21	(H)	DP: KREISS-TOMKINS
03/08/21	(H)	NR: TARR
03/08/21	(H)	AM: CLAMAN, STORY, EASTMAN, VANCE, KAUFMAN
03/10/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/10/21	(H)	Heard & Held
03/10/21	(H)	MINUTE(JUD)
03/15/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/15/21	(H)	Heard & Held
03/15/21	(H)	MINUTE(JUD)
03/17/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/17/21	(H)	Moved CSHB 3(JUD) Out of Committee
03/17/21	(H)	MINUTE(JUD)
03/19/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/19/21	(H)	<Bill Hearing Canceled>
03/20/21	(H)	JUD RPT CS(JUD) 5DP 2AM
03/20/21	(H)	DP: VANCE, DRUMMOND, KREISS-TOMKINS, SNYDER, CLAMAN
03/20/21	(H)	AM: EASTMAN, KURKA
04/19/21	(H)	TRANSMITTED TO (S)
04/19/21	(H)	VERSION: CSHB 3(JUD)
04/21/21	(S)	READ THE FIRST TIME - REFERRALS
04/21/21	(S)	STA, JUD
04/26/21	(S)	MOTION TO WAIVE PUBLICATION NOTICE, RULE 23 FAILED Y12 N7 E1
05/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/04/21	(S)	Heard & Held
05/04/21	(S)	MINUTE(STA)
05/06/21	(S)	STA AT 3:30 PM BUTROVICH 205

BILL: SJR 12

SHORT TITLE: SOCIAL SECURITY BENEFIT REDUCTION REPEAL

SPONSOR (s) : WIELECHOWSKI

03/29/21	(S)	READ THE FIRST TIME - REFERRALS
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03/29/21	(S)	STA, FIN
04/27/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/27/21	(S)	<Bill Hearing Canceled>
05/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/04/21	(S)	Heard & Held
05/04/21	(S)	MINUTE(STA)
05/06/21	(S)	STA AT 3:30 PM BUTROVICH 205

BILL: SB 91

SHORT TITLE: DETENTION OF MINORS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/22/21	(S)	READ THE FIRST TIME - REFERRALS
02/22/21	(S)	HSS, STA
03/09/21	(S)	HSS AT 1:30 PM BUTROVICH 205
03/09/21	(S)	Heard & Held
03/09/21	(S)	MINUTE(HSS)
04/06/21	(S)	HSS AT 1:30 PM BUTROVICH 205
04/06/21	(S)	Moved CSSB 91(HSS) Out of Committee
04/06/21	(S)	MINUTE(HSS)
04/07/21	(S)	HSS RPT CS 2DP 1NR SAME TITLE
04/07/21	(S)	DP: WILSON, BEGICH
04/07/21	(S)	NR: REINBOLD
04/27/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/27/21	(S)	Heard & Held
04/27/21	(S)	MINUTE(STA)
05/06/21	(S)	STA AT 3:30 PM BUTROVICH 205

BILL: SB 117

SHORT TITLE: PROCUREMENT; CONSTRUCTION; CONTRACTS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/31/21	(S)	READ THE FIRST TIME - REFERRALS
03/31/21	(S)	STA, TRA
04/27/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/27/21	(S)	Heard & Held
04/27/21	(S)	MINUTE(STA)
05/06/21	(S)	STA AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR DONNY OLSON

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 108.

KEN TRUITT, Staff

Senator Donny Olson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for SB 108.

NATASHA SINGH, General Counsel  
Tanana Chiefs Conference  
Fairbanks, Alaska

**POSITION STATEMENT:** Co-presented a PowerPoint on SB 108.

JOY ANDERSON, General Counsel  
Association of Village Council Presidents  
Bethel, Alaska

**POSITION STATEMENT:** Co-presented a PowerPoint on SB 108.

SENATOR DONNY OLSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 109.

CORI MILLS, Deputy Attorney General  
Civil Division  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Presented a PowerPoint to introduce SB 82.

THOMAS FLYNN, Assistant Attorney General  
Civil Division  
Labor and State Affairs Section  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Participated in the introduction of SB 82

MORGAN LIM  
Planned Parenthood Alliance Advocate  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to both SB 82 and SB 83.

SENATOR GRAY-JACKSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 1.

BESSE ODOM, Staff  
Senator Gray-Jackson  
Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for SB 1 on behalf of the sponsor.

PETER MLYNARIK, Board Member  
Alaska Association of Chiefs of Police  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 1.

MARK PEARSON, President  
Alaska Peace Officers Association  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 1 on behalf of APOA.

KATIE BOTZ, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 1.

MORGAN LIM  
Planned Parenthood Alliance Advocate  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 1 and SB 4.

CEYLON MICHELL, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 1.

DANIEL POTTER, representing self  
Mat-Su Valley, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 1.

RON VIGIL, Anchorage Chapter President  
Alaska Peace officers Association  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 1.

SENATOR GRAY-JACKSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 4.

KEITH BAUGUESS, Staff  
Senator Gray-Jackson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for SB 4.



PETER MLYNARIK, Board Member  
Alaska Association of Chiefs of Police  
Soldotna, Alaska

**POSITION STATEMENT:** Raised concerns about SB 4.

MARK PEARSON, President  
Alaska Peace Officers Association  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 4.

RON VIGIL, Anchorage Chapter President  
Alaska Peace officers Association  
Anchorage, Alaska

**POSITION STATEMENT:** Expressed concern with SB 4.

SENATOR JESSE KIEHL  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 115.

EDRIC CARRILLO, Staff  
Senator Jesse Kiehl  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for SB 115 on behalf of the sponsor.

MATTHEW DUBOIS, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 115.

REPRESENTATIVE DELENA JOHNSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 3.

ERIC CORDERO, Staff  
Representative DeLana Johnson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions about HB 3.

NANCY MEADE, General Counsel  
Administrative Staff  
Office of the Administrative Director  
Alaska Court System  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on HB 3, provided information about the recent attack on the Court System database.

SENATOR BILL WIELECHOWSKI  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SJR 12.

NANCY MEADE, General Counsel  
Administrative Staff  
Office of the Administrative Director  
Alaska Court System  
Juneau, Alaska

**POSITION STATEMENT:** Commented on the amendment to SB 91.

#### **ACTION NARRATIVE**

[3:33:08 PM](#)

**CHAIR MIKE SHOWER** called the Senate State Affairs Standing Committee meeting to order at 3:33 p.m. Present at the call to order were Senators Kawasaki (via Teams), Costello (via Teams), Reinbold (via Teams), and Chair Shower.

CHAIR SHOWER reviewed the remote meeting protocols, including the roll call to show the presence and location of the committee member.

Roll call: SENATOR REINBOLD, Capitol room 427, SENATOR COSTELLO, Capitol room 119, SENATOR KAWASAKI, Capitol room 7, and CHAIR SHOWER in the Butrovich room, Capitol 205.

#### **SB 108-STATE RECOGNITION OF TRIBES**

[3:36:14 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 108 "An Act providing for state recognition of federally recognized tribes; and providing for an effective date."

[3:36:37 PM](#)

SENATOR DONNY OLSON, Alaska State Legislature, Juneau, Alaska, sponsor of SB 108, stated that this legislation proposes to formally recognize the tribes in Alaska, which are already recognized by the federal government and listed in the Federally Recognized Tribal List Act of 1994. He highlighted that the Alaska Supreme Court and the executive branch already have recognized tribes in Alaska. In the 1999 Baker v. John case, the

Alaska Supreme Court made this the law of the state and in 2017 the Alaska attorney general issued a memo outlining tribal recognition.

SENATOR OLSON stated that the intent of SB 108 is to reconcile the government of Alaska with its First Peoples and declaring this formal state policy is the first step into the future with tribes as partners rather than adversaries.

SENATOR OLSON stated that SB 108 does not expand the current rights of established tribes, it does not obligate any more state resources to tribes, and it does not diminish the state's ability to manage its public resources. SB 108 simply dignifies the tribal citizens of Alaska by recognizing them as tribal people.

3:39:04 PM

At ease

3:40:10 PM

CHAIR SHOWER reconvened the meeting.

3:40:31 PM

KEN TRUITT, Staff, Senator Donny Olson, Alaska State Legislature, Juneau, Alaska, advised that while SB 108 has just three operative sentences, it has some large concepts to consider. He reviewed the supporting materials in members' packets starting with President Nixon's 1970 special address on Indian affairs, which he said is still the most succinct and insightful statement of the federal Indian policy of self-determination. The Baker v. John case that the sponsor referenced, was a landmark moment when the Alaska Supreme Court determined the existence and recognition of federally recognized tribes in the state. He noted that former Attorney General Jahna Lindemuth's exposition of tribes in Alaska was also in the packets.

MR. TRUITT spoke to the sponsor statement for SB 108 that read as follows:

Senate Bill 108 proposes to formally recognize the tribes in this state and the peoples who governed themselves for multiple millennia before statehood. The federal government has a special and unique

relationship with tribes that through this bill the state would acknowledge.

Alaska obtained statehood during the era of federal Indian policy where the federal government sought to terminate its trust relationship with its tribal people and force them to abandon their tribal identity, cultures, languages, and ways of life. While the federal government embraced needed change and went on to pass the Self Determination and Education Assistance Act in 1975, Alaska's state constitution, and state policy, are still relics of the painful past. We have clung to this policy to our collective peril as all the peoples of this state have suffered because of it.

Many of the struggles facing Alaska today, from the public safety crisis, suicide, the epidemic of sexual assault and domestic violence have only been reinforced by the state's policy of telling its tribal peoples that their form of government has no existence, no standing, and no recognition.

It is time to stop this policy and break from the past and usher in a new era that seeks to reconcile all the state's peoples one to another.

Senate Bill 108 serves as a first step, by making it the formal state policy that the state's indigenous peoples have their own governments and that the government of the state of Alaska will no longer deny their existence. This provides for not only formal recognition in our statutes, but a roadmap for healing, wholeness, and restoration of all Alaska's people and communities.

[3:43:22 PM](#)

R. TRUITT emphasized that this legislation is still needed, despite the Supreme Court's declaration of the law in the state, because it is the legislature's role to establish and declare the official policy of the state. It is not the governor's role to declare state policy, despite former Governor Hickel's statement that Alaska was one people and did not have tribes. While that might have been what the governor felt, Mr. Truitt said it was not the governor's role to declare state policy. Making state policy is the legislature's role and that is part

of the reasoning behind the formal recognition of tribes in statute.

[3:45:55 PM](#)

MR. TRUITT explained that SB 108 declares the end of termination era thinking as the official state policy, which is a step toward aligning with the federal Indian policy of self determination. What self determination looks like on the state level will take some conversation, he said, but it needs to start by acknowledging that tribes not only exist in Alaska, but they are also properly here. He posited that this session underscores that point given that the legislature received its vaccinations from the tribal health provider for this region.

[3:47:35 PM](#)

MR. TRUITT presented the following sectional analysis for SB 108:

**Section 1** contains legislative findings and intent that will be uncoded. This was added to the bill that was introduced in the previous legislature.

**Section 2.** This is a technical change and could have been included in a revisor's bill. In 2016, provisions from chapter 14 of title 25 of the United States Code were reorganized. As a result, the Federally Recognized Indian Tribe List Act of 1994 received a different section number in the U.S. Code. The operative provision of this bill in Section 4 of the bill references this act. The proposed new statute in Section 4 cross references AS 23.20.520 and so Legislative Legal is suggesting that the new section number in the U.S. Code be updated in this statute.

**Sections 3 and 4.** Sections 3 and 4 are technical changes. The proposed new statute of this bill was deemed to be codified in AS 44.03 by Legislative Legal. This chapter of title 44 contains only four statutes that deal with state ownership and jurisdiction of offshore water and submerged lands and rules of statutory construction for the chapter. Because the proposed new statute of this bill is a completely different concept than the existing statutes within AS 44.03, clarifying language was inserted to accommodate the proposed new statute within this chapter.

**Section 5.** This section contains the proposed new statute which acknowledges the unique status tribes have with the federal government and makes it the states official policy that the state recognizes the federally recognized tribes within the state of Alaska. The list of federally recognized tribes is codified in the U.S. Code and this statute references that act. This section makes clear that this recognition is in no way intended to affect the federal trust responsibility the U.S. Government extends to tribes nor is it an attempt to create a state trust responsibility to tribes.

**Section 6** is the effective date.

[3:51:17 PM](#)

CHAIR SHOWER asked the sponsor how he would respond to those who feel this legislation would infringe on state rights.

[3:52:53 PM](#)

SENATOR OLSON replied the intent is not to cause conflict between state rights and tribal rights. He deferred further comment to Mr. Truitt

MR. TRUITT offered an historical perspective. He explained that one reason the framers of the U.S. Constitution replaced the Articles of Confederation was because it granted supreme rights to each of the colonies, including the issue of Indian affairs. Because there was no uniformity among the 13 colonies as to how to work with the tribes, the framers of the constitution wrote the Indian Commerce Clause. The colonies relinquished their exclusive control over Indian affairs and made it a federal question, which it has been to this day.

He confirmed the sponsor's statement that SB 108 does not expand any rights that tribes have now by virtue of their recognized status.

CHAIR SHOWER commented that this will be well debated because of the strong feelings on the issue. He opined that it was past time for the discussion.

[3:56:03 PM](#)

SENATOR KAWASAKI thanked the sponsor and expressed appreciation for the history lesson from Mr. Truitt.

[3:56:54 PM](#)

SENATOR REINBOLD asked the sponsor if Alaska Native history is required in public schools.

[3:57:31 PM](#)

SENATOR OLSON replied he was not aware of that requirement and the bill has nothing to do with any curriculum the state may require.

SENATOR REINBOLD said she just wondered if tribal issues were discussed in the curriculum at any time.

SENATOR OLSON restated his previous answer and said he was not aware of any discussion about curriculum.

[3:59:51 PM](#)

NATASHA SINGH, General Counsel, Tanana Chiefs Conference (Tanana Chiefs), Fairbanks, Alaska, co-delivered a presentation titled Recognition of Alaska Tribes. She stated that Tanana Chiefs represents 37 federally recognized tribes, and she was co-presenting with Joy Anderson, general counsel for the Association of Village Council Presidents that represents 56 federally recognized tribes. She began the presentation by paraphrasing the text on slide 2 that read as follows:

Native peoples and Tribes have existed in the Americas from time immemorial.

"Before the coming of the Europeans, the tribes were self-governing sovereign political communities."

-*John v. Baker*, Alaska Supreme Court

[4:01:55 PM](#)

JOY ANDERSON, General Counsel, Association of Village Council Presidents, Bethel, Alaska, co-delivered the presentation titled Recognition of Alaska Tribes. She explained that tribes are domestic dependent nations, which is the legal term for all federally recognized tribes, including those in Alaska. They are sovereign governments that are subject only to the authority of the United States. She suggested the members read the list on slide 3 that describes the characteristics of tribes. The slide read as follows:

- ❖ Inherent powers and authorities with self-governance of internal affairs e.g. type of government; tribal membership

- ❖ Tribes exercise all powers, unless those powers have been expressly limited by Congress
- ❖ Regulate matters pertaining to tribal members, e.g. taxes, property, members' conduct
- ❖ Immune from lawsuits
- ❖ Tribes are not state or local governments; political subdivisions or agencies or instrumentalities of the federal or state governments; tax exempt organizations

[4:02:54 PM](#)

MS. ANDERSON said the name of the bill is very important because it recognizes that tribes are already in Alaska. It does not create tribes or expand any powers.

[4:03:10 PM](#)

MS. SINGH briefly reviewed the history of tribes since Columbus arrived in the Americas and emphasized the point that tribes have rights and a relationship with the federal government with or without SB 108 and recognition by the legislature. She directed attention to the timeline on slide 5 that identifies the progression of the federal Indian policy periods, starting with the 1492-1820 Colonial Era where tribes were specifically referenced in the constitution. The subsequent federal Indian policy periods were the removal/relocation era from 1820-1850; the reservation/treaty making era from 1850-1887; the allotment & assimilation era from 1887-1934; the Indian self-government era from 1934-1953; the termination era from 1953-1960s and the self determination era from 1960s-present. She noted the committee's time constraints and said she would not detail each policy period

MS. SINGH related that the Alaska Native Claims Settlement Act was negotiated and signed at the end of the termination policy period, which was followed by the self determination policy that was championed by President Nixon. She said the point is that the current policy is the only successful federal Indian policy in the history of the relationship between tribes and the federal government.

[4:04:47 PM](#)

MS. ANDERSON reviewed slides 6-8. She stated that in 1831, the Marshall court issued a trilogy of decisions that established the principles that are the foundation for the relationship between tribes and the federal government. She noted that one of the decisions established the definition of "Domestic Dependent Nation." She directed attention to slide 7 that encapsulates the



three cases: *Johnson v. M'Intosh*, *Cherokee Nation v. Georgia*, and *Worcester v. Georgia*. The slide read as follow:

4:05:33 PM

- ❖ **Aboriginal land claims:** Aboriginal people retain the rights of use and occupancy, that only the United States government can settle aboriginal land claims, and that the U.S. has a legal duty to protect aboriginal title until land claims are officially settled.
- ❖ **Tribal Authority:** Tribes are nations with the authority to govern themselves. The source of their authority to govern is "inherent," meaning that it comes from tribes being self-governing long before explorers and settlers came to the Americas.
- ❖ **Federal Trust Responsibility:** The federal government has a responsibility to protect Indian lands and resources, and to provide essential services to Indian people. This comes from the fact that the federal government took away the vast majority of Indian lands, and in return promised to provide these things.

4:06:13 PM

MS. ANDERSON stated that in 1867 Russia sold the United States its claim to Alaska through the Treaty of Cession, which included the following statement:

The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.

It is an example of the way that colonialism treated indigenous people as inferior, but it is also clear evidence that tribes existed in Alaska. The treaty recognized that Russia had exercised power over tribes in Alaska and it ceded that power to the United States.

4:07:08 PM

MS. SINGH emphasized that the United States recognizes tribes because it is in the constitution. She described that point and the success of the current self-determination policy as important takeaways. That policy has had bipartisan support for four decades and it has worked to improve Native communities. The Indian Self-Determination Act of 1975 was a major piece of

legislation that allows tribes to identify services the government is obligated to provide and contract for those services through either the Bureau of Indian Affairs or the Indian Health Service. Tribes are doing that in Alaska and that is why the rollout of the COVID-19 vaccine was so successful in Alaska's tribal communities.

4:08:41 PM

MS. SINGH directed attention to the bulleted points of Executive Order 13175 of 2000. It read as follows:

- ❖ Established regular and meaningful consultation and collaboration with tribes in the development of federal policies that have tribal implications.
- ❖ Recognizes that the United States has a unique legal relationship with Indian tribal governments as set forth in the U.S. Constitution, treaties, statutes, Executive Orders, and U.S. Supreme Court decisions.
- ❖ Confirms that the U.S. recognizes Indian tribes as "domestic dependent nations under its protection."
- ❖ Recognizes a trust relationship with Indian tribes.
- ❖ Recognizes the right of Indian tribes to self-government, tribal authority and self-determination.
- ❖ All federal agencies are to respect Indian tribal self-government and authority.

MS SINGH restated that Alaska tribes have had a relationship with the federal government and will continue to have a relationship with or without passage of SB 108.

4:09:40 PM

MS. SINGH credited Mr. Truitt with giving a brief history of the earlier position of the executive branch in Alaska, which was that tribes did not exist. She said the cases cited on slide 14 demonstrate that part of the termination era was an effective shift to eliminate tribes in Alaska. However, history demonstrates that only Congress has that power; the State of Alaska is unable to do that. Slide 14 cited the following cases:

- ❖ *Native Village of Stevens v. Alaska Management & Planning* (Alaska 1988) - "There are not now and

never have been tribes of Indians in Alaska as that term is used in federal Indian Law."

- ❖ Alaska Administrative Order No. 125 (1991) - "State of Alaska opposes expansion of tribal governmental powers and the creation of 'Indian Country' in Alaska."

She highlighted that these cases were overturned and reversed as lawmakers became educated about federal Indian law.

[4:10:54 PM](#)

MS. ANDERSON reviewed the federal government responses to the cases cited on slide 14, starting in 1993 with the Department of Interior (DOI) Sansonetti Opinion. It controverted the Alaska Supreme Court analyses, observing that the federal government had recognized tribes in Alaska for many years and treated them as such. She reported that DOI issued a list of federally recognized tribes in Alaska nine months later. Then in 1994, Congress required the lists of recognized tribes, including those in Alaska, to be published annually. That was the List Act and all versions since 1994 have included the federally recognized tribes in Alaska.

[4:11:54 PM](#)

MS. ANDERSON reviewed the current position of the State of Alaska as to the recognition of tribes that is outlined on slide 16. She said the state's position has shifted over the last several decades. Baker v. John was a landmark case where the Alaska Supreme Court reversed itself on the Stevens decision and recognized the existence and sovereignty of tribes and some of the powers they exercise. In 2018, an Alaska Administrative Order by Governor Walker recognized tribes by stating that there was a need to improve government to government relations with Alaska tribes. She said that was preceded by the 2017 Department of Law opinion that, "[T]here are no unresolved legal questions regarding the legal status of Alaska Tribes as federally recognized tribal governments."

MS. ANDERSON read the important points about SB 108 that were bulleted on slide 17, which read as follows:

- ❖ Will bring the Alaska State Legislature in line with the other two branches of state government regarding the status of Alaska tribes.
- ❖ Will modernize the policy towards Alaska Native tribes by officially moving the state legislature

out of the Termination Era and into the Self-Determination Era.

- ❖ Create the potential for the State of Alaska to lead the country in creation of state-tribal relations.

[4:13:40 PM](#)

MS. SINGH concluded the presentation stating that should SB 108 pass, it will be a first step in developing a formal relationship between the State of Alaska and its 230 tribes. "We can determine together what that relationship should become and how we should learn from the federal self-determination policy." SB 108 presents a great opportunity, she said.

[4:14:38 PM](#)

CHAIR SHOWER thanked the presenters and apologized for rushing the presentation due to the eight additional bills on the schedule. He said he looked forward to debating some of the questions.

CHAIR SHOWER held SB 108 in committee.

#### **SB 109-COUNCIL FOR ALASKA NATIVE LANGUAGES**

[4:15:33 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 109 "An Act renaming the Alaska Native Language Preservation and Advisory Council as the Council for Alaska Native Languages; and relating to the Council for Alaska Native Languages."

[4:15:44 PM](#)

SENATOR DONNY OLSON, Alaska State Legislature, Juneau, Alaska, sponsor of SB 109, introduced the legislation paraphrasing the following sponsor statement:

Senate Bill 109 reflects a request from the Alaska Native Language Preservation and Advisory Council to change its name to the "Council for Alaska Native Languages." This change would shorten the Council's name while emphasizing the Council's broader focus, which includes more than just language preservation. In fact, the statute establishing the Council, AS 44.33.520, states the purpose of the Council is to recommend "the establishment or reorganization of programs to support the preservation, restoration, and revitalization of Alaska Native languages."

The Council also requests an increase in membership from 5 to 7 members in recognition of the diversity of Alaska Native languages in the state (there are at least 20 Native languages in Alaska). This allows for greater language representation on the Council and increases the involvement of a great number of native language speakers from different regions of the state.

[4:17:27 PM](#)

CHAIR SHOWER held SB 109 in committee for future consideration.

### **SB 82-ELECTIONS; ELECTION INVESTIGATIONS**

[4:18:13 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 82 "An Act relating to elections and election investigations."

[CSSB 82(JUD), work order 32-GS1645\I, was the working document although references are to the work draft version B that the Judiciary Committee amended then passed from committee.]

[4:18:52 PM](#)

CORI MILLS, Deputy Attorney General, Civil Division, Department of Law, Juneau, Alaska, on behalf of the administration, presented a PowerPoint to introduce SB 82. She stated that the purpose of SB 82 is to authorize the attorney general to conduct civil investigations into Title 15 election law violations and bring civil enforcement actions if a violation is found. Under current statute, if the Division of Elections notices suspicious behavior related to an election, the only option is for the division to refer the matter for criminal investigation.

Ms. MILLS advised that SB 82 would add a civil investigation tool similar to what the Department of Law does for consumer protection investigations, but on an expedited basis. She recounted the advantages of civil investigations. Action can be taken more quickly, the evidentiary standard of proof is not as high, and the Department of Law can more quickly get information to the division it may need to make determinations during the election. When needed, criminal and civil investigations could run concurrently.

[4:21:31 PM](#)

MS. MILLS skipped ahead to slide 7 to discuss the complaint referral process. She said an investigation can start with a complaint from a member of the public, when the division notices something out of the ordinary in the election process, or the

attorney general can initiate an investigation. Under SB 82, the division would review a complaint that is filed and in consultation with the Department of Law determine whether it warrants investigation. If not, the complaint would be dismissed. If the complaint warrants further review, it would be forwarded to the attorney general who has discretion to conduct an investigation and prioritize cases.

4:22:54 PM

THOMAS FLYNN, Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law, Anchorage, Alaska, continued the presentation with a review of the steps of an investigation from less formal to more formal. Informal discovery includes voluntary interviews with victims, witnesses, and the target of the investigation. More formal techniques include subpoenas for testimony or documents from agencies. He noted that the bill sets out standard deadlines with the option to move faster for an impending election. At the end of the investigation, the attorney general has the option of providing a notice of findings to the division, going to court to seek enforcement, or referral for criminal investigation.

4:24:10 PM

MR. FLYNN presented the sectional analysis for SB 82, including the changes made in the previous committee.

SB 82, "An Act relating to elections and election investigations" adds one new section to AS 15.56:

Subsection (a) would allow anyone can file a written complaint alleging a violation of state election laws or regulations to the Division of Elections. The complaint must be filed within 30 days after an election or 30 days after the alleged violation occurred, whichever is later.

Subsection (b) directs the Division of Elections to refer alleged violations of campaign finance laws under AS 15.13 to the Alaska Public Offices Commission (APOC). The division has the discretion to refer all other complaints to the attorney general. If the complaint is incomplete, frivolous, or does not allege a violation, the division can request additional information or it could dismiss the complaint.

Subsection (c), as amended, allows the attorney general to investigate an alleged violation by issuing

subpoenas and interrogatories and by obtaining records from agencies.

Subsection (d), as amended, explains that the attorney general must serve the subpoenas and may initiate contempt proceedings as prescribed by other laws.

Subsection (e), as amended, allows the attorney general to obtain a court order requiring a response through a subpoena or interrogatory in a shorter amount of time than is provided in subsection (c).

Subsection (f), as amended, allows the recipient of a subpoena or interrogatory under subsection (c) to file an opposing lawsuit, which the court must expedite. The court may choose to hear the attorney general's argument ex parte.

Subsection (g), as amended, directs the attorney general to provide the division with the result of the investigation and a notice of findings once the investigation is complete. In the event a complaint against a state agency or employee has merit, the division will make reasonable effort to respond.

4:26:23 PM

Subsection (h), as amended, provides that the notice of findings and the record that supports the findings are public records subject to the Public Records Act. But intelligence information the attorney general has gathered or provided to law enforcement is not subject to disclosure.

Subsection (i) allows the attorney general to sue for injunctive relief after the investigation provided the alleged violation is not a violation of campaign finance laws.

Subsection (j), as amended, allows the attorney general to seek a fine of no more than \$250,000 per violation along with reasonable fees and costs, including the cost of the investigation.

4:27:00 PM

MR. FLYNN noted that subsection (k) was added by amendment.

Subsection (k) would require the attorney general to file an action against a candidate or elected official within two years of the filing of the complaint.

Subsections (l) and (m) allow the division and the attorney general to adopt regulations to implement this section.

Subsection (n) clarifies that the person filing the complaint may always go to court.

Subsection (o) defines frivolous, state agency and state employee.

[4:28:13 PM](#)

SENATOR KAWASAKI said he had a number of questions, but he was willing to wait for a written response if the answers were lengthy. He raised the following questions:

- Is there an appeal process for dismissed complaints?
- What does information regarding intelligence information include and why would that not be part of the public record under the Freedom of Information Act (FOIA)?

MS. MILLS answered that while there is no specific administrative appeal process if the division dismisses a complaint, this does not preclude the complainant from going to court or the attorney general initiating an independent investigation.

MS. MILLS, addressing the second question regarding intelligence information, explained that the terms come from the Consumer Protection Act, which makes the record of the investigation and intelligence information confidential. She noted that the Judiciary Committee determined that the public would benefit from having some of the records be public, so they bifurcated those into a record of investigation and intelligence information. The record of investigation includes anything needed to support the notice of findings and everything else, such as tips, is considered intelligence information.

SENATOR KAWASAKI asked why a tip would not be disclosable information.

MS. MILLS answered that a tip might lead to an additional investigation and if disclosed, could hinder a future investigation



CHAIR SHOWER advised that he read the list in statute of what would be exempted.

[4:33:33 PM](#)

SENATOR REINBOLD asked if it was wise to have the attorney general in charge of the process since that is an appointed rather than elected position.

MS. MILLS pointed out that the Department of Law already works with sensitive matters that do not always align with the position of elected officials and they have to find a balance. In addition, the bill does not preclude going to court so the information would be made public.

[4:35:25 PM](#)

SENATOR REINBOLD expressed concern that every person would not hold to such a high bar.

CHAIR SHOWER commented on the importance of getting legislative intent on the record and the notion of an elected or appointed attorney general or an elected inspector general.

[4:36:16 PM](#)

CHAIR SHOWER opened public testimony on SB 82.

[4:36:40 PM](#)

MORGAN LIM, representing Planned Parenthood Alliance Advocate (PPAA), Juneau, Alaska, stated that PPAA opposes both SB 82 and SB 83. He reported that in the first quarter of 2021, more than 361 voter suppression measures have been introduced in 47 states. He posited that they are part of a nationwide trend as many elected officials try to make it more difficult to cast a ballot. He said SB 83 imposes burdensome voter identification requirements on absentee voters and limits in-person voting in communities with populations of less than 750. SB 82 perpetuates the unsubstantiated narrative that election offenses are widespread. Both bills claim to be combating election fraud, but in reality are bills in search of a problem. Both bills will likely disenfranchise voters, he said.

MR. LIM stated that PPAA supports policies that make it convenient for eligible voters to register and cast a ballot and opposes burdensome requirements for identification for absentee voting and refusing to allow ballot curing. He pointed out that the promise of equal access at the ballot box has not been achieved when Black, indigenous, and people of color communities

are more likely to face barriers to voting. Nationwide there are inadequate polling places, increasingly limited voting hours, disenfranchised formerly incarcerated persons, and systematic efforts to suppress votes.

He concluded saying that Planned Parenthood Alliance Advocates urges the committee not to advance either SB 82 or SB 83.

[4:39:35 PM](#)

CHAIR SHOWER closed public testimony on SB 82 and held the bill in committee. He advised that written testimony could be submitted to [ssta@akleg.gov](mailto:ssta@akleg.gov).

### **SB 1-CHOKEHOLD BAN**

[4:40:05 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 1 "An Act prohibiting the use of chokeholds by peace officers; and relating to justification of use of force by peace officers."

[4:40:23 PM](#)

SENATOR GRAY-JACKSON, Alaska State Legislature, Juneau, Alaska, sponsor of SB 1, stated that the recent civilian casualties by law enforcement has created real momentum to address a longstanding injustice. She related that her office has been working with Senator Begich's office to craft a series of bills to reduce police violence. She has talked to stakeholders throughout the process to ensure the proposals in SB 1 are fitting for Alaska.

SENATOR GRAY-JACKSON reported that she engaged the Anchorage Police Department, Anchorage Police Employees Association, Public Safety Employees Association, and the National Organization of Black Law Enforcement Executives (NOBLE) during this process. Because of this proactive approach, she is confident in moving forward to implement public safety policy changes that will benefit both citizens and law enforcement officers.

[4:43:10 PM](#)

SENATOR GRAY-JACKSON read the following sponsor statement for SB 1:

Police use numerous restraints to restrain and limit the movement and overall activity of someone who poses a danger to themselves or to others (including the police officer). One of the most common restraints are

carotid and tracheal chokes. Both restraints impede breathing and circulation of blood. If these restraints are used incorrectly, death through asphyxiation may occur. Throughout the United States, there are cases of the misuse of chokeholds. Senate Bill (SB) 1 would assist in reducing the rate of chokeholds used incorrectly. SB1 would further seek to improve police community relationships by addressing a longstanding issue around use of force.

[4:43:59 PM](#)

BESSE ODOM, Staff, Senator Elvi Gray-Jackson, Alaska State Legislature, Juneau, Alaska, read the following sectional analysis for SB 1:

**Section 1.** This section amends AS 11.81.370, the statute regarding use of force by a peace officer in making an arrest or terminating an escape by adding a new subsection that would prohibit the use of potentially lethal restraints.

SENATOR REINBOLD offered her understanding that the Anchorage Police Department (APD) already had this prohibition and asked what particular Alaska peace officer group was being targeted.

SENATOR GRAY-JACKSON agreed that APD prohibits choke holds and said she brought this forward because the policy is not in state statute. Therefore, a different APD police chief could decide to change the current policy. The bill would apply to peace officers throughout the state.

CHAIR SHOWER turned to invited testimony.

[4:46:39 PM](#)

PETER MLYNARIK, Board Member, Alaska Association of Chiefs of Police (AACP), Soldotna, Alaska, stated that he has been in law enforcement for 31 years, the last 9 of which have been as chief of police in Soldotna. He said AACP agrees that without proper training, the use of choke holds and carotid restraints can cause serious injury or death. It is not uncommon for departments to prohibit these types of force. AACP also believes that police agencies in Alaska have good policies regarding use of force and it is therefore unnecessary to mandate compliance in statute. He offered his professional opinion that the proper use of carotid restraints may prevent further injury. Whether or not this type of restraint is used should be made by the department. He said his experience is with the Alaska State

Troopers and the Soldotna Police Department, but he understands that it is uncommon in Alaska to use a chokehold carotid restraint when dealing with an individual.

SENATOR REINBOLD expressed appreciation for the input from the frontline. She commented on being a minority voice and offered her view that everyone should be heard.

[4:50:14 PM](#)

MARK PEARSON, President, Alaska Peace Officers Association (APOA), Soldotna, Alaska, stated that he has been active in law enforcement for the last 18 years and the APOA organization has been active in representing law enforcement for 75 years. He advised that when APOA had its annual meeting to discuss relevant legislation with AACOP, PSEA and APDA, they voted unanimously to oppose SB 1, SB 2, SB 3, SB 4, and SB 46. The reason for the opposition was the collective belief that policing regulation and certification should remain with the Alaska Police Standards Council and within individual departments. He said Alaska has unique challenges due to geography and limited backup and its peace officers do not respond in ways that might escalate the situation. He offered that his experience in remote locations is that somebody you arrest one day might be your backup another day, so everybody is treated with respect.

MR. PEARSON challenged the information on BASIS indicating that APOA supports SB 1 and other policing bills because they sent letters of opposition for SB 1, SB 2, SB 3, SB 4, and SB 46. He said that as the current president of APOA he speaks for law enforcement throughout the state. He stressed that SB 1 would place officers at risk and would negatively affect recruitment and retention.

SENATOR REINBOLD asked if the Alaska Police Standards Council (APSC) had a position.

MR. PEARSON recalled that in a previous hearing APSC said these issues are already addressed in statute, but they did not take a specific position.

CHAIR SHOWER said he was welcome to send his written testimony to [ssta@akleg.gov](mailto:ssta@akleg.gov).

[4:56:46 PM](#)

SENATOR GRAY-JACKSON clarified that she never said that APOC was part of the process when she was working on the bill.

4:57:13 PM

MS. ODOM confirmed that the sponsor's office did receive the letters of opposition from APOC. She emphasized that contrary to what the APOC letter stated, SB 1 does not take away decertification authority from the Alaska Police Standards Council. She added that the bill provides individual departments and agencies as to when it is safe to use these methods. She directed attention to the language on line 8 that read as follow: "...force is authorized by law and the policy of the entity that employs the officer."

SENATOR GRAY-JACKSON added that her office worked diligently with the chair of the Alaska Police Standards Council.

4:59:16 PM

CHAIR SHOWER opened public testimony on SB 1.

4:59:33 PM

KATIE BOTZ, representing self, Juneau, Alaska, thanked the sponsor for SB 1 and SB 4 and asked the committee to pass both bills. She stated support for the police and related a concern she had heard that police officers in Juneau do not have the proper training to use choke holds.

5:01:21 PM

MORGAN LIM, Planned Parenthood Alliance Advocate (PPAA), Juneau, Alaska, on behalf of PPAA, stated support SB 1 and SB 4 and urged the committee to move both bills forward. He said PPAA stands with Black, indigenous, and people of color communities as they seek to create communities where they feel safe. This involves transforming law enforcement. He said SB 1 is a first step towards reducing police use of force, including deadly force. He mentioned that SB 4 would prohibit police from discharging a firearm at a moving vehicle. He cited data that identifies Alaska as the second highest rate of police killings in the country and the second highest rate of police violence against Black and indigenous people. [His testimony was terminated due to time constraints.]

5:03:06 PM

CEYLON MICHELL, representing self, Anchorage, Alaska, stated that as a retired sergeant with the Department of Corrections, he was testifying against SB 1 and SB 4. He said he has 45 years in law enforcement/corrections, and he has not found a more professional and well-trained group of officers than those that he worked with in Alaska. They take pride in serving the people

of Alaska and they put their lives on the line for Alaskans every day. He emphasized that officers go to work each day to do their job to protect citizens and they also want to go home safely to their families.

[5:04:29 PM](#)

DANIEL POTTER, representing self, Mat-Su Valley, Alaska, stated that he has been in law enforcement in Alaska for about seven years and has never seen a chokehold used. He shared that he had experienced choke holds numerous times while in the Army and he is "fine." He offered his belief that there was a lot of fear mongering associated with this method of restraint and that law enforcement was being over legislated. He stated opposition to both SB 1 and SB 4.

[5:05:36 PM](#)

RON VIGIL, Anchorage Chapter President, Alaska Peace Officers Association, Anchorage, Alaska, stated opposition to SB 1, SB 4, and SB 46. He related that in his 24 years in law enforcement he has worked for departments that allow and departments that do not allow lateral vascular neck restraints. He knows the APSC sets the standards for the training that is required and to over legislate to Lower 48 standards is not appropriate for Alaska communities. He asked the committee not to pass the bills.

[5:07:18 PM](#)

CHAIR SHOWER recessed the meeting to a call of the chair.

[5:36:30 PM](#)

CHAIR SHOWER reconvened the meeting. A roll call showed the presence of SENATOR COSTELLO in capitol room 118 and SENATOR HOLLAND in capitol room 113 and CHAIR SHOWER in the committee room.

[5:37:26 PM](#)

CHAIR SHOWER closed public testimony on SB 1 and held the bill in committee.

#### **SB 4-PROHIBIT PEACE OFF. SHOOT MOVING VEHICLE**

[5:37:50 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 4 "An Act relating to justification of use of force by a peace officer; and relating to shooting at a moving vehicle."

[5:38:02 PM](#)

SENATOR GRAY-JACKSON, Alaska State Legislature, Juneau, Alaska, sponsor of SB 4, read the sponsor statement into the record.

[Original punctuation provided.]

SB4 "An Act relating to justification of use of force by a peace officer; and relating to shooting at a moving vehicle."

The use of force in making an arrest or stop is not justified under this bill if the peace officer knowingly discharges a firearm at or in the direction of a propelled vehicle while another person is operating the vehicle unless the vehicle poses a risk of imminent danger to a peace officer or others.

With the passing of SB4, AS 11.81.370(d) will amend the previous Statute by adding a new section to read: Applicability, which would apply to conduct by a peace officer occurring on or after the effective date of this Act.

[5:39:07 PM](#)

KEITH BAUGUESS, Staff, Senator Gray-Jackson, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for SB 4.

**Section 1:** Amends AS 11.81.370 (d) by adding a new subsection to read: If, in making an arrest or stop, a peace officer knowingly discharges a firearm at or in the direction of a propelled vehicle while another person is operating the vehicle, the use of force is not justified under this section unless the person is operating the vehicle in a manner that poses an immediate threat of serious risk to the life of the officer or another person.

**Section 2:** Adopts conforming language from section 1, setting an effective date.

CHAIR SHOWER turned to invited testimony.

[5:40:42 PM](#)

PETER MLYNARIK, Board Member, Alaska Association of Chiefs of Police (AACOP), Soldotna, Alaska, stated that AACOP believes that shooting at a moving vehicle is deadly force but the use of the words "not justified" creates an automatic at fault for an

officer. AACOP also believes that police already have policies and procedures that effectively deal with this sort of incident, and it should not be governed by statute. He emphasized that agencies are capable and do a good job of self-regulating.

CHAIR SHOWER commented on the option to work together to find a bridge or compromise to meet the intent of the sponsor and assuage the concerns of law enforcement.

[5:43:20 PM](#)

SENATOR GRAY-JACKSON expressed appreciation for the comments and stressed that this and her other bills were not trying to take control away from any agency. The intent is to standardize procedures in statute. She highlighted her high regard for law enforcement and her longstanding and positive working relationship with APD.

CHAIR SHOWER asked Chief Mlynarik to comment on the idea of working to find a compromise.

CHIEF MLYNARIK said he would be willing to work on a compromise in the language and he appreciated the sponsor's concern for public safety.

[5:45:46 PM](#)

MARK PEARSON, President, Alaska Peace Officers Association (APOA), Soldotna, Alaska, stated that APOA represents a number of police organizations and departments throughout the state. On behalf of APOA, he stated opposition to SB 4. He said the collective belief is that policing regulation and certification should remain with the Alaska Police Standards Council and within individual departments. He highlighted that APOA sent a letter to both the sponsor and Senator Begich stating opposition to a suite of bills that included SB 4. However, that is not reflected on BASIS.

[5:47:21 PM](#)

SENATOR REINBOLD joined the committee

CHAIR SHOWER commented that further conversation with APOA may be a good idea to try to find common ground.

[5:47:50 PM](#)

SENATOR GRAY-JACKSON stated that she would reach out to APOA and some of the agencies it represents to try come to consensus.



CHAIR SHOWER offered to work with both APOA and the sponsor to look for common ground.

MR. PEARSON thanked the committee for its time.

[5:48:53 PM](#)

CHAIR SHOWER opened public testimony on SB 4.

[5:49:11 PM](#)

RON VIGIL, President, Alaska Peace Officers Association, Anchorage Chapter, Anchorage, Alaska, stated that he has been in law enforcement for 24 years and throughout that time departments have followed the U.S. Supreme Court case *Graham v. Conner* that determined that an objective reasonableness standard should apply regarding the use of force by law enforcement. He said every department trains for and uses this standard. He offered his professional belief that SB 4 was a step in the wrong direction and did not reflect the unique circumstances, the training, and the professionalism of law enforcement in Alaska.

CHAIR SHOWER restated the offer to work with the sponsor and law enforcement agencies to consider ideas or compromise language that might be acceptable.

[5:51:30 PM](#)

CHAIR SHOWER closed public testimony on SB 4 and held the bill in committee.

#### **SB 115-ADDRESS CONFIDENTIALITY PROGRAM**

[5:52:08 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 115 "An Act relating to confidentiality of information; relating to the duties of the Department of Administration; creating an address confidentiality program; and providing for an effective date."

[5:52:23 PM](#)

SENATOR JESSE KIEHL, Alaska State Legislature, Juneau, Alaska, sponsor of SB 115, stated that this legislation creates an address confidentiality program similar to what 41 other states have done. He recounted two stories to demonstrate the need for this program. The first was about a survivor of domestic violence who got out of a life-threatening marriage. She had a protective order against her abuser, moved to a new city, and received her mail at a post office box. He noted that this was

before the days of social media. Quite some time later, she spotted her abuser waiting in a car outside the post office in her new city. Senator Kiehl said he didn't want to think what might have happened if she hadn't spotted her abuser. He said he learned about the second story from a friend who works in one of the law enforcement professions. It is not public. In summary, this individual and his family were threatened and to this day he fears for his home and his family.

5:53:00 PM

SENATOR KIEHL explained that SB 115 is designed to balance safety for those who need it while maintaining the various public records. Survivors of domestic violence, sexual assault, stalking, peace officers, and correctional officers could receive their mail - especially their public records mail - at a central state address. That mail would then be forwarded to the individual's actual mailing address that remains confidential and cannot be found through a public records search by an abuser or someone bent on revenge.

SENATOR KIEHL advised that the Department of Administration would host the program and that mail would go to the confidential address for five years after the expiration of a protective order or the work of a peace officer or correctional officer ends. He committed to continue to work with the department, law enforcement, correctional officers, and victim advocates over the Interim to fine tune the bill for next session. This work will include a cost estimate based on the experience of other states. He said he hopes the cost will be small, but it is a cost worth paying to keep Alaskans safe.

CHAIR SHOWER requested the sectional analysis.

5:57:17 PM

EDRIC CARRILLO, Staff, Senator Jesse Kiehl, Alaska State Legislature, Juneau, Alaska, presented the following sectional analysis for SB 115.

**Sec. 1:** Updates court laws to add confidentiality for peace officers and state and municipal correctional officers to existing laws for victims and witnesses

**Sec. 2:** Personal address and telephone number of peace officers and correctional officers are confidential in court documents and must be redacted before release.

**Sec. 3:** Personal address and telephone number of peace officers and correctional officers are confidential in open court and cannot be placed in court files unless ordered by the court.

[5:57:55 PM](#)

**Sec. 4:** Defines state and municipal correctional officers.

**Sec. 5:** Assigns the duty to administer an address confidentiality program to the Department of Administration.

**Sec. 6:** Creates the new program, describing its purpose, requiring a Post Office Box as a substitute mailing address for enrollees, and requiring the department to adopt regulations. This section describes eligibility, requires state and municipal agency to accept the P.O. Box, and describes the five-year eligibility period. It lays out how that period may be extended and forbids the department from charging a fee. The section allows a peace officer access to an enrollee's personal address with a search warrant and establishes penalties for unlawfully revealing a protected individual's address.

**Sec. 7:** Establishes a transition period for the department to adopt regulations to implement the bill.

**Sec. 8:** Sets an immediate effective date for the process to adopt regulations.

**Sec. 9:** Sets an effective date of Feb. 1, 2022 for the rest of the bill.

[5:59:14 PM](#)

SENATOR COSTELLO asked if the bill had a provision to protect the addresses of individuals on the permanent fund dividend and voter registration rolls.

SENATOR KIEHL replied, the bill does not change the underlying law on those addresses but a person participating in the registry could use the state protected address on their application.

[6:00:30 PM](#)

SENATOR HOLLAND asked if any group was opposed to this legislation.

SENATOR KIEHL answered that his office had not received any opposition, he was not expecting any opposition, and his office was working to make the cost acceptable.

6:01:22 PM

CHAIR SHOWER asked if any consideration was given to including other categories of individuals such as judges or if the bill was a model legislation.

MR. CARRILLO answered that the research so far indicates that the question has been considered but nothing has come of it. He offered to follow up.

CHAIR SHOWER commented that there may be other categories of individuals that would benefit from being included. He said he liked the idea and would suggest casting the net as wide as possible.

SENATOR REINBOLD suggested doing a risk benefit analysis because the list could become very broad.

CHAIR SHOWER said he agrees but the concept is solid.

SENATOR KIEHL said he would include those items in the analysis and the work with the department over the Interim. He noted that when he introduced similar legislation in the previous legislature someone made the insightful observation that regardless of the requirements, the department cannot erase somebody's Facebook page and other online records. Using himself as an example, he said he constantly posts on social media as part of his interaction with friends and constituents so he would not benefit from this registry. However, the people who will benefit are those who are seriously guarding their privacy daily from a major, violent threat. He reiterated that he would look at the other categories as part of the analysis.

CHAIR SHOWER turned to invited testimony.

6:06:18 PM

MATTHEW DUBOIS, representing self, Juneau, Alaska, stated that he has been a police officer with the Juneau Police Department (JPD) since 2007, he is a member of the Public Safety Employees Association (PSEA) union, and he sits on the board. He said he was speaking in favor of SB 115, and he had personal examples to

support that position. The first was when a corrections officer contacted him to relay information he heard while monitoring a violent felon's prison phone conversation. The individual stated his intention to look up Officer DuBois's home address when he was released from jail and cause him harm. The second example relates to what is called extra patrol. This is when officers drive by another officer's home because they have received serious threats. He related that another alarming incident was learning about a webpage that had profiles of police officers in Fairbanks and North Pole. The data included the officers' home addresses, phone numbers, where their spouses worked, and where their children went to school. He concluded that SB 115 would not only protect the groups listed in the bill, but also their families.

SENATOR KIEHL restated his commitment to continue to work with the people in law enforcement, the victim community, and the department to refine the bill.

[6:09:40 PM](#)

CHAIR SHOWER opened public testimony on SB 115; finding none, he closed public testimony and advised that public testimony could be submitted to [ssa@akleg.gov](mailto:ssa@akleg.gov).

[SB 115 was held in committee.]

### **SB 83-ELECTIONS; VOTING; BALLOT REQ**

[6:10:01 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 83 "An Act relating to elections; and providing for an effective date."

CHAIR SHOWER stated he was extending the amendment period for SB 83. He noted who was available to answer questions, but found none.

[6:11:01 PM](#)

CHAIR SHOWER held SB 83 in committee.

### **HB 3-DEFINITION OF "DISASTER": CYBERSECURITY**

[6:11:08 PM](#)

CHAIR SHOWER announced the consideration of CS FOR HOUSE BILL NO. 3(JUD) "An Act relating to the definition of 'disaster.'"

He noted that this was the second hearing and public testimony was closed. He asked the sponsor if she had any comments.

[6:11:46 PM](#)

REPRESENTATIVE DELENA JOHNSON, Alaska State Legislature, Juneau, Alaska, sponsor of HB 3, advised that a representative from the Court System was available to answer questions about how [the recent cybersecurity breach] affected the Court System. She deferred further comment to her staff, Eric Cordero.

[6:12:28 PM](#)

ERIC CORDERO, Staff Representative DeLana Johnson, Alaska State Legislature, Juneau, Alaska, offered to answer any lingering questions about HB 3.

SENATOR COSTELLO stated support for the bill and asked if other states had added cybersecurity into their disaster statutes.

MR. CORDERO answered that a number of states have listed cybersecurity in their disaster statutes and the Department of Homeland Security is encouraging all states to be more proactive in protecting against cyber threats. He noted that Legislative Legal Services suggested the legislature clarify the disaster statute after it removed the reference to manmade causes several years ago.

CHAIR SHOWER commented on the times the state has been breached the last several years, including elections and the Court System. He listed the individuals available to answer questions.

SENATOR REINBOLD asked if a disaster can be declared based on a cyber [attack]. She added that she was "kind of done with disaster declarations and emergency declarations right now."

REPRESENTATIVE JOHNSON answered that everyone is probably sick and tired of what's happened in the last year, but it has caused a greater understanding of the declaration of disaster than when she initially introduced the bill nearly two years ago. She deferred further response to Mr. Cordero.

MR. CORDERO explained that the language in the bill specifically refers to a credible immanent threat of widespread damage to critical infrastructure due to a cyber attack. He noted that Nancy Mead could comment on the recent cyber attack on the Court System database.

[6:16:54 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System, Juneau, Alaska, offered her belief that the record might benefit from hearing about the recent widespread cyber attack on the Court System database. She said it has been very difficult to deal with and it has affected the public because all their websites and CourtView are offline. A team is working around the clock to create workarounds and resolve the issues. The court immediately hired a security consultant to determine the extent of the attack and the expectation is to soon enter the remediation phase.

6:17:36 PM

MS. MEADE said many people would acknowledge that the Court System is critical to the ongoing operations of the state, and it was fortunate that the attack did not completely shut the court down. Employees have internal access to email, but nobody can email the Court System and employees have no access to the internet. She acknowledged that the Court System has some older equipment that made it vulnerable and said the monetary damage is very real. She advised that she spoke to the sponsor about letting the committee and others know about what an impact this sort of attack can have.

CHAIR SHOWER said he understands Senator Reinbold's comment, but a cyber attack of a certain scope and scale would certainly be a disaster.

He asked the sponsor if she had final comments.

6:19:27 PM

REPRESENTATIVE JOHNSON offered her belief that the threat of cyber attacks would not decrease over time.

CHAIR SHOWER commented that it is the world today.

SENATOR REINBOLD said she had to read between the lines to discern that the answer was "yes" and that was a concern. She maintained that terms such as "widespread" and "infrastructure" were not adequately defined. She said she would not try to slow the bill, but her recommendation would be to amend because the bill needed sideboards.

CHAIR SHOWER committed to work with the sponsor in the next committee of referral. He solicited a motion.

6:21:32 PM

SENATOR REINBOLD moved to report HB 3, work order 32-LS0041\W, from committee with individual recommendations and attached fiscal note(s).

CHAIR SHOWER found no objection and CSHB 3(JUD) was reported from the Senate State Affairs Standing Committee.

**SJR 12-SOCIAL SECURITY BENEFIT REDUCTION REPEAL**

[6:21:57 PM](#)

CHAIR SHOWER announced the consideration of SENATE JOINT RESOLUTION NO. 12 Urging the United States Congress to repeal the Windfall Elimination Provision and Government Pension Offset of the Social Security Act.

He noted that the bill was previously heard, the amendment period was past, and public testimony was opened and closed. He asked the sponsor if he had final comments.

[6:22:18 PM](#)

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, sponsor of SJR 12, said this is about fairness. Somebody who pays into Social Security through multiple private sector employers is not penalized but somebody who works in the private sector and moves to a public sector employer in Alaska is penalized. It could amount to \$6,000 per year. His office heard from hundreds of Alaskans who have been penalized. Alaska has the highest percentage of people in the U.S. who are penalized by [the Windfall Elimination Provision (WEP) and/or the Government Pension Offset (GPO)]. This includes public employees, military veterans, firefighters, police officers, nurses, and teachers. He emphasized that the resolution will cost the state nothing. It simply urges Congress to say it values the public service and it will not penalize people for it.

SENATOR HOLLAND said he was not opposed to the resolution, but he wondered what the cost would be at the federal level.

SENATOR WIELECHOWSKI said the rough math would be 12,000 Alaskans who are penalized up to \$6,000 per year. He pointed out that this was money that people have put into Social Security, so it was a matter of fairness.

SENATOR HOLLAND clarified that he was not opposed to the bill.



CHAIR SHOWER found no further questions or comments and solicited a motion.

[6:25:08 PM](#)

SENATOR REINBOLD moved to report SJR 12, work order 32-LS0664\B, from committee with individual recommendations and attached fiscal note(s).

CHAIR SHOWER found no objection and SJR 12 was reported from the Senate State Affairs Standing Committee.

### **SB 91-DETENTION OF MINORS**

[6:25:33 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 91 "An Act relating to the duties of the commissioner of corrections; relating to the detention of minors; relating to minors subject to adult courts; relating to the placement of minors in adult correctional facilities; and providing for an effective date."

[CSSB 91(HSS) was before the committee.]

[6:26:12 PM](#)

At ease

[6:27:04 PM](#)

CHAIR SHOWER reconvened the meeting and moved Conceptual Amendment 1 to SB 91.

### **CONCEPTUAL AMENDMENT 1**

Adds a new Section 1 that amends AS 18.85.100(a) by inserting "or at a review hearing under AS 47.12.105(f)" following "Child in Need of Aid Rules".

Renumber subsequent sections.

He read subsection (a) with the new language.

SENATOR HOLLAND objected for discussion purposes.

[6:28:22 PM](#)

CHAIR SHOWER asked Ms. Meade for an explanation and why it was requested.

[6:28:29 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System, Juneau, Alaska, described the proposed amendment as somewhat conforming. She directed attention to page 8, lines 25 and 26 of CSSB 91(HSS), version I. It is the provision about minors who have been waived into adult court. She explained that if the judge determined that the minor should be held in an adult correctional facility, the minor is entitled to a review hearing every 30 days to make sure they still need to be held in an adult facility. Lines 25 and 26 say the minor is entitled to counsel at the review hearing and the amendment clarifies who provides that counsel. It authorizes the public defender to do what the bill says a waived minor is entitled to have.

[6:30:52 PM](#)

CHAIR SHOWER asked if this had been discussed with the public defender.

MS. MEADE confirmed that the public defender had no opposition, and the sponsor and administration were aware of this.

[6:31:31 PM](#)

SENATOR HOLLAND withdrew his objection.

CHAIR SHOWER found no further objection and Conceptual Amendment 1 passed. Finding no further comments or questions, he solicited a motion.

[6:32:03 PM](#)

SENATOR REINBOLD moved to report SB 91 as amended, work order [32-GS1576\I] as amended, from committee with individual recommendations and attached fiscal note(s).

[6:32:43 PM](#)

CHAIR SHOWER found no objection and CSSB 91(STA) was reported from the Senate State Affairs Standing Committee.

#### **SB 117-PROCUREMENT; CONSTRUCTION; CONTRACTS**

[6:33:05 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 117 "An Act relating to the state procurement code; establishing the construction manager general contractor procurement method; and providing for an effective date."

CHAIR SHOWER he asked if there were questions or comments.

6:33:30 PM

SENATOR REINBOLD asked for a high-level summary of the bill.

CHAIR SHOWER read the transmittal letter.

6:35:45 PM

SENATOR REINBOLD asked if this aligns with federal code.

CHAIR SHOWER answered yes.

SENATOR COSTELLO said she always appreciates the analysis on the fiscal note. She read the last paragraph that read as follows:

The department's experience is that the CMGC contracting method produces decreased contractor change orders and quicker project completion and, therefore, will result in an unknown savings in staff time and leveraging of departmental resources.

SENATOR COSTELLO said the department has been using this method and she would urge the committee to pass the bill.

CHAIR SHOWER thanked her for the input.

6:37:26 PM

SENATOR HOLLAND said he was not opposed to the bill.

CHAIR SHOWER solicited a motion.

6:37:57 PM

SENATOR REINBOLD moved to report SB 117, work order 32-GS1579\A, from committee with individual recommendations and attached fiscal note(s).

CHAIR SHOWER found no objection and SB 117 was reported from the Senate State Affairs Standing Committee.

6:38:48 PM

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 6:38 p.m.